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No. ———

IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

HANSON BRATTON, GALE BOGENN, WILLIAM SHELL, PATRICK JORDAN, CHARLES MAHONEY, individually and on behalf of all others similarly situated; and THE DETROIT POLICE LIEUTENANTS & SERGEANTS ASSOCIATION,

Petitioners,

vs.

CITY OF DETROIT, a Michigan Municipal Corporation; COLEMAN A. YOUNG, Mayor; WILLIAM L. HART, Chief of Police; DETROIT BOARD OF POLICE COMMISSIONERS; and GUARDIANS OF MICHIGAN, DAVID L. SIMMONS, ARNOLD D. PAYNE, JAMES E. CRAWFORD, CLINTON DONALDSON, WILLIE JOHNSON, KENNETH M. JOHNSON, ALFRED BROOKS,

Respondents.

AMICUS CURIAE BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

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This brief as an amicus curiae is submitted on behalf of the Saint Paul Police Federation in support of the Petition for Writ of Certiorari with the written consent of all the parties. The letters consenting to the filing of the brief have been filed in the office of the Clerk.

The Saint Paul Police Federation is the exclusive bargaining agent for the sworn members of the police department for the City of Saint Paul, Minnesota. The Federation collectively represents 490 officer members holding the ranks of Patrol Officer, Sergeant, Lieutenant and Captain. The hiring and promotion of these officers is regulated through the auspices of the City of Saint Paul's personnel department under the structure of a meritorious civil service system.

In Saint Paul, Minnesota, as elsewhere across the nation, public employers are seeking guidance in adopting affirmative action programs created to remedy past discriminatory practices in the hiring and promoting of their employees. The issues presented in *Bratton, et al vs. City of Detroit, et al* grant to this Court a unique opportunity to address this concern and to provide definitive guidelines and direction to an area, which to date, has been riddled with overriding confusion and ambiguity. In order that such concerns may be adequately and equitably addressed by the lower courts of this nation, guidance and direction which is available only through this Court must be provided.

The impact of this Court's decision to grant certiorari in this case or to not grant certiorari will have a profound influence on affirmative action programs adopted in communities all across the United States for years to come. The Court's decision will determine whether the state of confusion presently existing shall continue or whether a clear direction will be established.

Specific issues which this Court will have a clear opportunity to address are:

1. to what extent should the existence of past discrimination be established prior to the implementation of a racially preferenced affirmative action program;

2. in promotional advancements as well as initial hirings by governmental agencies, is it proper to base preferential quotas on the proportion of minorities in the community as a whole or should preferential treatment be based on the qualified applicants who realistically meet the demands of the relevant labor market;

3. is it proper to consider factors outside the specific harms caused by past discrimination in attempting to correct the injuries to specific individuals, i.e., should consideration be given to the discrimination effectuated against the community as a whole by the governmental agency involved in addition to the specific direct injury to individuals;

4. to what extent is it proper to grant racial preference to individuals not specifically injured and to likewise impose reverse discrimination and stigmatization upon members of the labor force who have not actively discriminated against the minority population as a whole, or directly against the specifically injured minority members of the relevant labor force;

5. prior to the implementation of rigid racially based quotas, should a governmental employer attempt to remedy past injustices through the implementation of less restrictive means;

6. what basis should the imposing governmental entity use in determining the length of time during which a racially based preference should be granted to minorities as a remedial measure.

The instant case offers many significant and controversial issues which remain unresolved since the adoption of af-

firmative action programs by public employees throughout the United States. Therefore, it is respectfully urged that this Court grant certiorari to this case, ultimately resolve the issues presented and provide the needed definitive guidelines for the establishment and maintenance of affirmative action programs by public employers.

Dated: October 25, 1983.

Respectfully submitted,

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